IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO. 314 OF 2005

Sudhaben R. Doshi & Anr ...Petitioners

Versus

Mahendrakumar Narottam Gandhi & Anr ..Respondents

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Mr. S.V. Marwadi, Advocate for the Petitioners

Mr. D.P Adsule, A.P.P. for State.

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CORAM: SMT. V.K. TAHILRAMANI, J.
DATED: 10TH JUNE, 2005

P. C.:-

1. Heard the learned advocate for the petitioners and the learned A.P.P. for the State.

2. The petitioners have prayed for quashing of Criminal Case No. 1186/S/2002 which is pending in the Court of learned Additional Chief Metropolitan Magistrate, 40th Court, Girgaon, Mumbai. In the said case, process has been issued against the petitioners under Section 138 of Negotiable Instruments Act. If the process issued against the petitioners is set aside, the proceedings in respect of the petitioners would come to an end. The learned advocate for the petitioners submitted that the learned Magistrate committed an error in issuing process and the said process deserves to be set aside.

3. For the reasons recorded in my order dated 8th

June, 2005 passed in Criminal Application No.645 of 2005, the petitioners have an efficacious remedy of preferring revision against the order of Magistrate issuing process. Hence, in my view, it would be appropriate that the petitioners prefer revision before the concerned Sessions Court against the order of the Magistrate issuing process.

4. Liberty is granted to the petitioners to prefer revision before the concerned Sessions Court. It is stated on behalf of the petitioners that as the petitioner No.1 is a lady aged about 50 years and the petitioner No.2 is suffering from HIV, they may be exempted from personal appearance before the trial Court for a period of three weeks from today. Looking to the fact that the petitioner No.1 is a lady aged about 50 years and the petitioner No.2 is suffering from HIV, exemption is granted to both of them from personal appearance before the trial Court for a period of four weeks from today.

5. On the necessary revision being preferred by the petitioner before the concerned Sessions Court, the concerned Sessions Court shall dispose of the same on merits after hearing the necessary parties.

6. Criminal writ petition is disposed of.

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